IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of: Ludger GRAUTE et al.	Atty Docket No. KKRT-00601-NUS
US National Stage Serial No.: 10/555,305	Art Unit: 3673
Confirmation No. 4991	Examiner: LUGO, CARLOS
Int'l Appl. No: PCT/DE2004/000917	Paper Type: Reply Brief
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For: MULTIFUNCTIONAL LEVER	

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/Sophie Chen/

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REPLY BRIEF

SIR:

As permitted under 37 CFR 41.41(a) and 41.43(b), this Reply Brief is being filed in response to the Examiner's Answer ("the Answer") mailed December 10, 2009. The Reply Brief is timely filed within two months from the mailing date of the Answer. The Reply Brief is warranted because in the Answer, the Examiner makes certain statements and raises several rebuttal arguments which need to be traversed.

I

The Examiner asserts that "[a]t the moment, claims 11, 20, and 29 **just require** a lever that is composed of one or more lever elements for performing one or more functions and that the lever elements are connected together." See the Answer, page 7, lines 1-3. However, this characterization of Appellant's claims omits the crucial limitations in claims 11 and 29, namely, that the basic lever (1) and the lever element(s) (2, 3) are ***rigidly*** and ***inseparably*** connected together, i.e., that they the basic lever (1) and the lever element(s) (2, 3) are connected together in a way that they do not move with respect to one another and that they do not separate from one another. To the contrary, in the '224 patent, the blocking element (17) and the intermediate element (5) taken together form a crank mechanism, wherein the intermediate element (5) rotates

around the axis of rotation (6) but the blocking element (17) moves linearly between a locking position and an unlocking position, i.e., the blocking element (17) and the intermediate element (5) move with respect to one another, and are not rigidly and inseparably connected together, as required by the pending claims.

II

The Examiner asserts that "[c]laims 11 and 20 **just requires** a 'multifunctional' lever that is composed of a basic lever and one or more lever members attached to the basic lever." See the Answer, page 7, lines 1-3. However, this characterization of Appellant's claims again omits the crucial limitations in claims 11 and 20, namely, "a basic lever (1) for performing an actuating function"; and "one or more lever element(s) (2, 3) for performing one or more actuating functions". The language "an element for performing an actuating function" is a means-plus-function limitation, which requires an anticipating prior art to teach or recite both the function and the structure disclosed in the specification corresponding to such language. See, In re Donaldson Co., 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994).

As stated in the Appeal brief, Appellant has given ample examples in the specification of actuating functions that can be carried out by the basic lever and the lever elements. See, Appeal Brief, page 9, second paragraph. In Moss, neither the lever (30) nor the latch (32) carries out any actuating functions. In Moss, the lever (30) is actuated by a user, but it does not perform any actuating functions of the sort taught by Appellant in the specification. The Examiner's argument that the lever (30) moves the lever (32) is untenable, because the actuating functions taught by Appellant are with respect to external elements, such as moving the pawl, the release lever, or the central locking element, rather than with respect to the very lever elements that are rigidly and inseparably joined together and which do not move with respect to one another. Similarly, in Moss, the latch (32) acts as a latch, i.e., it shuttles between a latched position and an unlatched position, but it does not perform any actuating functions of the sort taught by Appellant in the specification.

III

The Examiner asserts that "[t]he applicant argues that separating the elements presented by Erices '184 and them attach them together will destroy the device described by Erices '184." See the Answer, page 9, lines 11-12. But, Appellant makes no such argument. What Appellant does in the Appeal Brief, is to analyze the differences between the claimed invention and the related art and to give examples of modifications that a skilled artisan would need to make to the devices recited in the related art to arrive at the claimed invention. Indeed, one of the modification to the detent pawl lever (5) recited by Erices '184 that would be required to arrive at Appellant's multifunctional lever would be to cut off the driver arm (5'), the actuating section (10), and the blocking piece (16) and then to reattach them in a rigid and inseparable manner. But this critical modification is not obvious for the problem to be solved, i.e., that in basic car models, a single basic lever is needed for mechanical actuation, but in luxury models in addition to the single basic lever for mechanical actuation, additional levers are needed for electric actuation. The Examiner did not provide any rebuttal arguments to Appellant's argument as to lack of motivation and expectation to succeed for combining the reference teachings of the prior art.

IV

The Examiner asserts that "the Board of Appeals has concluded that separate members fastened together, in place of a one-piece member, is a design consideration within the skill of the art when there is no clearly critically in the performance of the device. At the instant, welding parts 5 and 10 together will not affect the performance or the mechanical movement of the device." See the Answer, page 10, lines 3-7. First, the Examiner does not cite any precedent to support his assertion and Appellant does not know of any such wide-sweeping decisions of the Board. If the Examiner wishes to cite any such decisions, Appellant would welcome an opportunity to respond.

Second, as to the critical modification of the prior art references cited that would have to be made to arrive at the claimed invention, Appellant respectfully submits that welding or otherwise ***rigidly*** and ***inseparably*** attaching a basic lever that performs an actuating function to

one or more lever elements that perform one or more actuating functions to form a multifunctional lever claimed by Appellant is a non-obvious solution for the problem to be solved, i.e., that in basic car models a single basic lever is needed for mechanical actuation, but in luxury models in addition to the single basic lever for mechanical actuation, additional levers are needed for electric actuation, particularly in light of the fact that various one-membered levers are known from prior art and that using such levers is not as cost effective as using the lever claimed by Appellant. The Examiner did not provide any rebuttal arguments to these objective indicia of non-obviousness argued by Appellant.

At least for these reasons, and the reasons stated in the Appeal Brief, the rejections by the Examiner should be reversed.

Customer Number: **33,794**

Respectfully Submitted,

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